

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16693 of 2007

08.8.2007

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Between:

Alla Viswanatha Rao, S/o.late Veera Naidu

...Petitioner

And

The District Collector, Vizianagaram

And others

...Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16693 of 2007

ORDER:

Petitioner purchased land admeasuring Acs.1.52 in survey No.28-3, another extent of Acs.0.50 in survey No.32-2, and another extent of Acs.0.42 in survey No.32-4 situated at Kapusomapuram village of S.Kota Mandal in Vizianagaram District. According to the petitioner these are not assigned lands but the third respondent initiated action under Section 3 of Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (the Act, for brevity) and addressed a notice to the petitioner calling upon him to offer explanation as to why he should not be evicted duly resuming the land in his possession. Petitioner alleges that the said notice was not served on him and that he is not staying in Kapusomapuram village. Be that as it is, third respondent passed orders on 18.6.2007, 26.5.2007 and 26.5.2007 directing to resume the land admeasuring Acs.4.12 in survey No.28-3, Acs.0.02 in survey No.32-2 and Acs.0.42 in survey No.32-4 for alleged contravention of the provisions under Section 3(2) of the Act. Aggrieved by the same, present writ petition is filed.

The matter was initially heard on 16.8.2007. Keeping in view the submissions made by the learned Counsel for petitioner, this Court directed learned Assistant Government Pleader for Revenue (Assignment), to produce the relevant record or to file counter affidavit. Learned Assistant Government Pleader has produced the file. A perusal of the same would show that the notices addressed to the petitioners are found on page Nos.11, 53 and 63 of the Tahsildar bearing File No.Rc.117/2007/A. The said notices were not received by the petitioner but, they were allegedly served on the son of the petitioner. As per Rule 3 of Andhra Pradesh Assigned Lands

(Prohibition of Transfers) Rules, 2007 (the Rules, for brevity), service of notice on the son of the petitioner is proper service and it cannot be faulted. However, in the impugned order, third respondent refers to an explanation allegedly submitted by the petitioner. It is the contention of the petitioner that he never submitted any explanation and he had no opportunity to present his case. This appears to be correct because there is no such explanation found in the file. Curiously third respondent who appears to have used a printed proforma filled up the same and issued the impugned order without applying mind. Though the remedy of appeal is available having regard to this, this Court is of considered opinion that petitioner may be given liberty to submit explanation to the show cause notice dated 02.5.2007 (copies of which are supplied to learned Counsel for petitioner in the Court) within a period of two weeks from the date of receipt of a copy of this order. After receiving such explanation, third respondent shall consider all the documents submitted by the petitioner along with other documents on record and pass order within a period of two weeks thereafter. The impugned order is accordingly set aside and there shall be *status quo* with regard to possession as on today.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

(V.V.S.RAO, J)

August 08, 2007

NOTE:

Issue order copy by
10.8.2007.

(By order)

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